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COMERICA BANK

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
(San Francisco Division)

EDWARD T. BERGO, <i>et al.</i> ,	)
	) Case No. C-04-4723 SI
Plaintiffs,	) (Assigned to Hon Susan Illston for all purposes)
	)
v.	) <b>STIPULATION AND [PROPOSED]</b>
	) <b>PROTECTIVE ORDER RE PRODUCTION</b>
S.J. WEAVER CONTRACTING, INC., <i>et al.</i> ,	) <b>OF DOCUMENTS</b>
	)
Defendants.	)
	)

IT IS HEREBY STIPULATED by and among Plaintiffs JOSE MORENO as CHAIRMAN and LARRY TOTTEN as CO-CHAIRMAN of the BOARD OF TRUSTEES FOR THE LABORERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA; LABORERS VACATION-HOLIDAY TRUST FUND FOR NORTHERN CALIFORNIA; LABORERS PENSION TRUST FUND FOR NORTHERN CALIFORNIA; and LABORERS TRAINING AND RETRAINING TRUST FUND FOR NORTHERN CALIFORNIA (“Plaintiffs” or the “Trust Funds”), through their attorneys of record, Stanton, Kay & Watson, LLP, by James P. Watson; defendant STEVEN J. WEAVER (“Mr. Weaver”), through his

1 attorneys of record, Atkinson, Andelson, Loya, Ruud & Romo, by Thomas W. Kovacich; and  
2 third party COMERICA BANK (the “Comerica”) as follows:

3 1. Plaintiffs filed a Complaint on November 8, 2004 for breach of an alleged  
4 collective bargaining agreement between S.J. Weaver Contracting, Inc. (“SJW”) and the  
5 Northern District Council of Laborers (the “Union”). The Complaint also sought damages  
6 against Mr. Weaver, alleging that he and SJW constituted a “single employer” and was therefore  
7 also bound to the terms and conditions of the collective bargaining agreement.

8 2. On May 10, 2005, SJW filed a voluntary petition seeking federal bankruptcy  
9 protection.

10 3. On May 13, 2005, SJW gave notice to the Court and Plaintiffs of the bankruptcy  
11 petition.

12 4. On June 3, 2005, the Court granted Mr. Weaver’s Motion to Set Aside Default  
13 Judgment.

14 5. Plaintiffs still seek to enforce the terms and conditions of the collective bargaining  
15 agreement against Mr. Weaver.

16 6. On June 17, 2005, Mr. Weaver filed his Answer to the Complaint denying  
17 Plaintiffs various allegations and raising additional affirmative defenses.

18 7. Plaintiffs served the Custodian of Records of Comerica with a third party  
19 Subpoena in a Civil Case in the instant lawsuit on or about August 25, 2005 (the “Subpoena”),  
20 seeking certain information concerning Mr. Weaver and SJW.

21 8. Comerica and Mr. Weaver contend, *inter alia*, that the records requested by the  
22 Plaintiffs contain SJW’s and Mr. Weaver’s private, confidential, proprietary and trade secret  
23 information. Comerica further contends that the records requested by the Plaintiffs contain  
24 Comerica’s proprietary and trade secret information. Subject to objections to the Subpoena  
25 served by Comerica on Plaintiffs, Comerica is willing to make certain responsive documents  
26 available for Plaintiffs to review and copy in accordance with the terms of this Stipulation.

1           9.       Plaintiffs have therefore agreed that the documents produced by Comerica shall  
2 be produced and used expressly for the purposes of determining whether Plaintiffs have a viable  
3 claim against Mr. Weaver in the instant lawsuit. Plaintiffs agree that they will not utilize the  
4 information for any other purposes or outside of this litigation. Plaintiffs also agree that they  
5 will not cause any information from these records to be distributed to any parties other than  
6 Plaintiffs' counsel.

7           10.     Within thirty (30) days after the conclusion of this lawsuit, counsel for the Trust  
8 Funds shall promptly return to Comerica all documents and copies produced pursuant to this  
9 stipulation.

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1 DATED: October 20, 2005

STANTON, KAY & WATSON, LLP

2  
3 By: \_\_\_\_\_/s/\_\_\_\_\_  
James P. Watson, Esq.  
4 Attorneys for Plaintiffs  
EDWARD T. BERGO, *et al.*,  
5

6 DATED: October 20, 2005

COMERICA BANK

7  
8 By: \_\_\_\_\_/s/\_\_\_\_\_  
Elizabeth M. Khachigian  
9 Senior Counsel  
10

11 **[PROPOSED] ORDER**

12 IT IS SO ORDERED.

13 DATED: \_\_\_\_\_

